

110TH CONGRESS
2D SESSION

H. R. 7002

To direct the Secretary of Transportation to establish and collect a national container fee and to use amounts collected from the fee to make grants for infrastructure projects at United States seaports and in surrounding areas to improve the movement of goods, enhance transportation security, and mitigate environmental damage caused by the movement of goods.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 23, 2008

Ms. RICHARDSON introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Ways and Means and Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Secretary of Transportation to establish and collect a national container fee and to use amounts collected from the fee to make grants for infrastructure projects at United States seaports and in surrounding areas to improve the movement of goods, enhance transportation security, and mitigate environmental damage caused by the movement of goods.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Making Opportunities
3 Via Efficient and More Effective National Transportation
4 Act of 2008” or the “MOVEMENT Act of 2008”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) The movement of goods is a form of inter-
8 state commerce.

9 (2) Waterborne containerized shipments of im-
10 ported products valued at approximately \$2 trillion
11 entered the United States last year.

12 (3) The number of waterborne containerized
13 shipments of cargo into and out of the United States
14 is expected to increase by more than 350 percent by
15 2020.

16 (4) In 2006, world waterborne container traffic
17 was estimated at 417 million twenty-foot equivalent
18 units (loaded and empty), 10 percent more than the
19 378 million twenty-foot equivalent units transported
20 in 2005.

21 (5) From 1995 to 2006, world waterborne con-
22 tainer traffic more than tripled in volume from 137
23 million twenty-foot equivalent units to 417 million
24 twenty-foot equivalent units, growing at an average
25 annual rate of approximately 11 percent.

1 (6) The number of waterborne containerized
2 shipments of imported products into the United
3 States increased by 33 percent between fiscal years
4 2000 and 2006, from 23.5 million shipments to 31.3
5 million shipments.

6 (7) In 2007, the 10 most productive container-
7 ized seaports in the United States, when measured
8 in terms of tonnage processed, handled 88 percent
9 of all United States waterborne container trade.

10 (8) The California Air Resources Board, in its
11 2006 Emission Reduction Plan for Ports and Goods
12 Movement, calculated that in California alone there
13 are 2,400 premature heart-related deaths related to
14 port and goods movement pollution, 62,000 cases of
15 asthma symptoms, and more than 1 million res-
16 piratory-related school absences every year.

17 **SEC. 3. DEFINITIONS.**

18 In this Act, the following definitions apply:

19 (1) **BENEFICIAL CARGO OWNER.**—The term
20 “beneficial cargo owner” means the importer of
21 record, who physically takes possession of cargo at
22 a destination and does not act as a third party in
23 the movement of such goods.

1 (2) CARGO CONTAINER.—The term “cargo con-
2 tainer” means a twenty-foot equivalent unit or a
3 forty-foot equivalent unit.

4 (3) COVERED SEAPORT.—The term “covered
5 seaport” means a seaport that has been designated
6 as a port of entry by the Commissioner of U.S. Cus-
7 toms and Border Protection.

8 (4) ELIGIBLE ENVIRONMENTAL PROJECT.—The
9 term “eligible environmental project” means a
10 project that mitigates environmental damage to air,
11 water, and soil caused by the movement of goods.

12 (5) ELIGIBLE GOODS MOVEMENT IMPROVEMENT
13 PROJECT.—The term “eligible goods movement im-
14 provement project” means a project eligible for as-
15 sistance under title 23, United States Code, that has
16 as its primary purpose improving the movement of
17 cargo containers in interstate commerce.

18 (6) ELIGIBLE HOMELAND SECURITY
19 PROJECT.—The term “eligible homeland security in-
20 frastructure project” means a project eligible for as-
21 sistance under section 70107 of title 46, United
22 States Code.

23 (7) ELIGIBLE PROJECT.—The term “eligible
24 project” means any eligible goods movement im-

1 provement project, eligible homeland security
2 project, or eligible environmental project.

3 (8) FORTY-FOOT EQUIVALENT UNIT.—The term
4 “forty-foot equivalent unit” means a shipping con-
5 tainer that measures approximately 39.5 feet by 7.8
6 feet by 7.10 feet.

7 (9) INTERSTATE COMMERCE.—The term “inter-
8 state commerce” means commerce between any place
9 in a State and any place outside of that State, or
10 within any possession of the United States (not in-
11 cluding the Canal Zone) or the District of Columbia,
12 and commerce between places within the same State
13 but through any place outside of that State.

14 (10) NATIONAL GOODS MOVEMENT IMPROVE-
15 MENT ACCOUNT.—The term “National Goods Move-
16 ment Improvement Account” means the separate ac-
17 count established by section 5.

18 (11) NATIONAL GOODS MOVEMENT IMPROVE-
19 MENT GRANT PROGRAM.—The term “National
20 Goods Movement Improvement Grant Program”
21 means the grant program authorized by section 6.

22 (12) SECRETARY.—The term “Secretary”
23 means the Secretary of Transportation.

24 (13) STATE.—The term “State” means any of
25 the 50 States, the District of Columbia, American

1 Samoa, Guam, the Northern Mariana Islands, Puer-
2 to Rico, the Virgin Islands, and any other territory
3 or possession of the United States.

4 (14) STATE TRANSPORTATION DEPARTMENT.—
5 The term “State transportation department” has the
6 meaning such term has under section 101 of title
7 23, United States Code.

8 (15) TWENTY-FOOT EQUIVALENT UNIT.—The
9 term “twenty-foot equivalent unit” means a shipping
10 container that measures approximately 20 feet by 8
11 feet by 8 feet.

12 (16) UNITED STATES.—The term “United
13 States” means the 50 States, the District of Colum-
14 bia, American Samoa, Guam, the Northern Mariana
15 Islands, Puerto Rico, the Virgin Islands, and any
16 other territory or possession of the United States.

17 **SEC. 4. FEE STRUCTURE.**

18 (a) ESTABLISHMENT.—Not later than 180 days after
19 the date of enactment of this Act, the Secretary shall issue
20 regulations to establish a national container fee to be col-
21 lected on each cargo container that is imported into the
22 United States or exported out of the United States in com-
23 merce at a covered seaport.

24 (b) AMOUNT.—The amount of the fee to be collected
25 on a cargo container under subsection (a) shall be—

1 (1) \$25 for a twenty-foot equivalent unit; and

2 (2) \$50 for a forty-foot equivalent unit.

3 (c) PAYMENT.—The beneficial cargo owner of mer-
4 chandise in a cargo container subject to the fee to be col-
5 lected under subsection (a) shall be responsible for pay-
6 ment of the fee. If there is more than one beneficial cargo
7 owner with respect to merchandise in a cargo container
8 subject to the fee to be collected under subsection (a), each
9 beneficial cargo owner shall be responsible for payment of
10 an equal portion of the fee.

11 (d) COLLECTION.—The Secretary, in cooperation
12 with the Commissioner of U.S. Customs and Border Pro-
13 tection, shall provide for collection of the fee under sub-
14 section (a).

15 (e) CONTAINER FORM.—Not later than 90 days after
16 the date of enactment of this Act, the Secretary, in co-
17 operation with the Commissioner of U.S. Customs and
18 Border Protection, shall provide for modification of ship-
19 pers export declaration and entry summary forms to in-
20 clude a listing of the number of cargo containers being
21 used by each beneficial cargo owner per shipment.

22 (f) DEPOSIT.—Amounts received at covered seaports
23 by the United States as a result of the fee to be collected
24 under subsection (a) shall be deposited into the National

1 Goods Movement Improvement Account established under
2 section 5 on a quarterly basis.

3 (g) ADJUSTMENTS OF FEES.—

4 (1) IN GENERAL.—After the last day of the 5-
5 year period beginning on the date of enactment of
6 this Act, the Secretary may increase or decrease the
7 amount of the fee to be collected under subsection
8 (a) based on infrastructure funding needs identified
9 under the National Goods Movement Improvement
10 Grant Program authorized by section 6.

11 (2) CONGRESSIONAL NOTIFICATION.—The Sec-
12 retary shall provide written notice to Congress of
13 any proposed increase or decrease of the fee at least
14 30 days before the increase or decrease takes effect.

15 (3) LIMITATION.—Paragraph (1) shall not be
16 construed to authorize the Secretary to eliminate the
17 fee.

18 (h) TERMINATION OF FEE.—The fee established pur-
19 suant to subsection (a) shall not apply after September
20 30, 2018.

21 **SEC. 5. ACCOUNT.**

22 (a) ESTABLISHMENT.—There is established in the
23 Treasury a separate account to be known as the “National
24 Goods Movement Improvement Account”.

1 (b) CONTENTS.—The account shall consist of
2 amounts deposited into the account under this Act.

3 (c) USE.—Amounts in the account shall be available
4 to the Secretary, as provided in appropriations Acts, for
5 making expenditures before October 1, 2019, to meet the
6 obligations of the United States entered into under this
7 Act.

8 **SEC. 6. GRANT PROGRAM.**

9 (a) GENERAL AUTHORITY.—The Secretary shall
10 carry out a program, to be known as the “National Goods
11 Movement Improvement Grant Program”, to provide
12 funding in accordance with the requirements of this sec-
13 tion for eligible projects using amounts appropriated out
14 of the National Goods Movement Improvement Account.

15 (b) ADMINISTRATIVE EXPENSES.—The Secretary
16 may set aside not to exceed one percent of the aggregate
17 amount appropriated out of the National Goods Movement
18 Improvement Account for a fiscal year to pay the adminis-
19 trative costs of the Secretary in carrying out this Act.

20 (c) APPORTIONMENT OF FUNDS.—

21 (1) IN GENERAL.—On October 1 of a fiscal
22 year, after setting aside funds under subsection (b),
23 the Secretary shall apportion 50 percent of the re-
24 maining funds appropriated out of the National
25 Goods Movement Improvement Account for the fis-

1 cal year among the States in the form of grants in
2 the ratio that—

3 (A) the amount of fees collected under sec-
4 tion 4 during the preceding fiscal year that are
5 attributable to a covered seaport located in the
6 State; bears to

7 (B) the aggregate amount of fees collected
8 under section 4 during the preceding fiscal
9 year.

10 (2) AVAILABILITY OF AMOUNTS TO STATE
11 TRANSPORTATION DEPARTMENTS.—Amounts appor-
12 tioned to a State under this subsection shall be
13 made available its State transportation department.
14 Such amounts may not be transferred to any other
15 entity.

16 (3) ELIGIBLE PROJECTS.—A State transpor-
17 tation department may obligate funds apportioned to
18 the State under this subsection only for eligible
19 projects that have been approved by the Secretary in
20 accordance with such procedures as the Secretary
21 may require.

22 (4) ALLOCATIONS OF APPORTIONED FUNDS.—
23 Of the amounts apportioned to a State under this
24 subsection for a fiscal year—

1 (A) 80 percent shall be available only for
2 eligible goods movement improvement projects;

3 (B) 10 percent shall be available only for
4 eligible homeland security projects; and

5 (C) 10 percent shall be available only for
6 eligible environmental projects.

7 (d) DISCRETIONARY GRANTS.—

8 (1) IN GENERAL.—After setting aside funds
9 under subsection (b) and making apportionments
10 under subsection (c), the remaining funds appro-
11 priated out of the National Goods Movement Im-
12 provement Account for a fiscal year shall be avail-
13 able to the Secretary for making discretionary
14 grants for eligible projects under this subsection.

15 (2) ELIGIBLE RECIPIENTS.—A State transpor-
16 tation department, owner or operator of a covered
17 seaport, or owner or operator of a railroad shall be
18 eligible to receive a grant under this subsection. A
19 grant received under this subsection may not be
20 transferred to any other entity.

21 (3) APPLICATIONS.—A State transportation de-
22 partment, owner or operator of a covered seaport, or
23 owner or operator of a railroad seeking a grant
24 under this subsection shall submit to the Secretary

1 an application that is in such form and contains
2 such information as the Secretary may require.

3 (4) ALLOCATION OF GRANT AWARDS.—Of the
4 amounts awarded in grants under this subsection for
5 a fiscal year—

6 (A) 80 percent shall be available only for
7 eligible goods movement improvement projects;

8 (B) 10 percent shall be available only for
9 eligible homeland security projects; and

10 (C) 10 percent shall be available only for
11 eligible environmental projects.

12 (e) PROJECT SELECTION GUIDELINES.—

13 (1) IN GENERAL.—Not later than 180 days
14 after the date of enactment of this Act, the Sec-
15 retary shall establish guidelines for the selection of
16 projects for grant funding under subsections (c) and
17 (d).

18 (2) AVAILABILITY OF GUIDELINES.—The Sec-
19 retary shall make the guidelines established under
20 this subsection available to State departments of
21 transportation, owners and operators of covered sea-
22 ports, and owners and operators of railroads.

23 (3) MINIMUM REQUIREMENTS.—In establishing
24 the guidelines under this subsection, the Secretary
25 shall ensure that the sponsor of an eligible project

1 receiving grant funding under this Act can dem-
2 onstrate—

3 (A) a financial need for the use of Federal
4 funding for the project; and

5 (B) a clear and definable purpose for the
6 project, including how the project will promote
7 one or more of the goals of—

8 (i) improved highway, rail, and port
9 goods movement;

10 (ii) greater security; and

11 (iii) support for projects that mitigate
12 environmental damage caused by the move-
13 ment of goods.

14 (4) PROJECTS ACCOMPLISHING MULTIPLE
15 GOALS.—In establishing the guidelines under this
16 subsection, the Secretary shall encourage the selec-
17 tion of projects that accomplish multiple goals de-
18 scribed in paragraph (3)(B).

19 (5) PLANNING REQUIREMENTS.—In estab-
20 lishing the guidelines under this subsection, the Sec-
21 retary shall ensure that eligible goods movement im-
22 provement projects are selected in accordance with
23 applicable metropolitan and statewide planning proc-
24 esses, including sections 134 and 135 of title 23,
25 United States Code.

1 (f) LOCATION OF PROJECTS.—

2 (1) PROJECTS CARRIED OUT USING APPOR-
3 TIONED FUNDS.—A project carried out using
4 amounts apportioned to a State under subsection (c)
5 shall be physically located, in whole or in part, on
6 the site of a covered seaport located in the State or
7 within a 40-mile radius of such a site.

8 (2) PROJECTS CARRIED OUT USING DISCRE-
9 TIONARY GRANTS.—

10 (A) PROJECTS AT OR NEAR A COVERED
11 SEAPORT.—The Secretary shall ensure that an
12 amount equal to at least 90 percent of the
13 funds awarded in discretionary grants under
14 subsection (d) is used to carry out projects that
15 are physically located, in whole or in part, on
16 the site of a covered seaport or within a 40-mile
17 radius of such a site.

18 (B) OTHER PROJECTS.—The Secretary
19 shall ensure that any project receiving funds
20 awarded in discretionary grants under sub-
21 section (d) that is not physically located, in
22 whole or in part, on the site of a covered sea-
23 port or within a 40-mile radius of such a site—

24 (i) is part of a goods movement chain
25 that originates at a covered seaport;

1 (ii) is designed to accomplish multiple
2 goals described in subsection (e)(3)(B);
3 and

4 (iii) is physically located, in whole or
5 in part, within a 100-mile radius of a cov-
6 ered seaport.

7 (C) ANNUAL REPORT.—The Secretary
8 shall provide to Congress, on an annual basis,
9 a report containing a description of the projects
10 selected under subparagraph (B) in the pre-
11 ceding fiscal year and the reasons for selection
12 of the projects.

13 **SEC. 7. ADMINISTRATIVE PROVISIONS.**

14 (a) DATE AVAILABLE FOR OBLIGATION.—Authoriza-
15 tions from the National Goods Movement Improvement
16 Account shall be available for obligation on the date of
17 their apportionment or allocation or on October 1 of the
18 fiscal year for which they are authorized, whichever occurs
19 first.

20 (b) PERIOD OF AVAILABILITY.—Funds apportioned
21 or allocated to a State department of transportation,
22 owner or operator of a covered seaport, or owner or oper-
23 ator of a railroad for a project shall remain available for
24 obligation for such purpose for a period of 2 years after
25 the last day of the fiscal year for which the funds are au-

1 thorized. Any funds so apportioned or allocated that re-
2 main unobligated at the end of such period shall be dis-
3 tributed by the Secretary in discretionary grants under
4 section 6(d) in the subsequent fiscal year.

5 (c) GRANTS AS CONTRACTUAL OBLIGATIONS.—A
6 grant for a project under this Act that is approved by the
7 Secretary is a contractual obligation of the Government
8 to pay the Federal share of the cost of the project.

9 (d) CONSTRUCTION STANDARDS.—A project to be
10 carried out with assistance under this Act that is for a
11 highway that is on a Federal-aid system (as such terms
12 are defined in section 101 of title 23, United States Code)
13 shall be constructed to the same standards that would
14 apply if such project was being carried out with assistance
15 under chapter 1 of title 23, United States Code.

16 (e) PREVAILING RATE OF WAGE.—Section 113 of
17 title 23, United States Code, shall apply to a project being
18 carried out with assistance provided under this Act in the
19 same manner and to the same extent as such section
20 would apply if such project was being carried out with as-
21 sistance provided under chapter 1 of such title.

22 (f) FEDERAL SHARE.—

23 (1) IN GENERAL.—The Federal share of the
24 cost of a project for which a grant is made under
25 this Act shall be 75 percent.

1 (2) NON-FEDERAL SHARE.—The non-Federal
2 share of the cost of a project for which a grant is
3 made under this Act may not be provided from Fed-
4 eral funds made available under any other law (in-
5 cluding funds from the Highway Trust Fund).

6 (g) PROHIBITION.—No funds made available under
7 this section may be used by grant recipients to conduct
8 a study related to a future project.

9 **SEC. 8. REPORTING REQUIREMENT.**

10 (a) REPORT TO CONGRESS.—Not later than Decem-
11 ber 31, 2010, and annually thereafter during the term of
12 the National Goods Movement Improvement Grant Pro-
13 gram (in this section referred to as the “program”), the
14 Secretary shall submit to Congress a report on the results
15 of the program.

16 (b) CONTENTS.—The report to be submitted under
17 subsection (a) shall include, at a minimum—

18 (1) a description of the impact that the pro-
19 gram has had on enhancing the efficiency of goods
20 movement across the United States, enhancing the
21 security of the movement of goods, and supporting
22 programs that mitigate the environmental damage
23 caused by the movement of goods;

24 (2) a list identifying each project selected for
25 funding under the program during the prior fiscal

1 year and the amount of funding provided under this
2 Act for the project;

3 (3) a description of the impact, if any, that the
4 program has had on the cost of imported consumer
5 goods in the United States;

6 (4) an assessment of the current condition of
7 the National Goods Movement Improvement Ac-
8 count;

9 (5) an assessment of the level of efficiency with
10 which the Secretary distributes amounts from the
11 National Goods Movement Improvement Account to
12 projects nationwide;

13 (6) recommendations regarding the potential
14 for expansion or other changes to the program, in-
15 cluding adjustments to the fee collected under sec-
16 tion 4 to ensure that the fee is producing sufficient
17 funding for the program; and

18 (7) recommendations regarding whether the
19 program should be reauthorized by Congress and, if
20 so, whether the fee collected under section 4 should
21 be increased or decreased to support infrastructure
22 spending.

23 (c) CONSULTATION.—In developing the report to be
24 submitted under subsection (a), the Secretary shall con-
25 sult with the Secretary of Commerce, the Secretary of

1 Homeland Security, and the Administrator of the Envi-
2 ronmental Protection Agency.

3 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated out of the
5 National Goods Movement Improvement Account to carry
6 out this Act for each of fiscal years 2009 through 2019
7 such sums as were deposited in the Account during the
8 preceding fiscal year.

9 **SEC. 10. SUNSET PROVISION.**

10 The authority of the Secretary to make grants under
11 this Act shall continue in effect until October 1, 2019.

○